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NOTE

From:	Presidency
To:	Permanent Representatives Committee
No. Cion doc.:	12187/16
Subject:	Omnibus proposal concerning financial rules - Separating the agricultural provisions from the Omnibus proposal

1. The Commission adopted the so-called "Omnibus" proposal on 14 September 2016¹ to adopt a new Regulation on the financial rules applicable to the general budget of the Union, as well as amendments to 15 sectoral acts as regards financial provisions. The working method to handle the different parts of the Omnibus proposal within the Council was agreed in December 2016², thereby assigning the examination of Articles 267, 268, 269, 270 and 275 of the Omnibus proposal to the *Special Committee on Agriculture* (A.8 SCA). A Friends of the Presidency Group was convened to ensure the overall coordination of the file.³

¹ Doc. 12187/16 + ADD 1 + ADD 2.

² Doc. 15245/16, Annex I.

³ Doc. 15776/16.

2. A joint mandate from the Permanent Representatives Committee (Part II) was sought on 26 June 2017 for all parts of the Omnibus proposal, including the agricultural provisions.¹ Subsequently, negotiations with the European Parliament started for each part of the Omnibus separately.
3. Negotiations with the European Parliament on the agricultural provisions took place at four trilogues held between July and October 2017 and resulted in an agreement on an overall compromise package of amendments to Regulations (EU) No 1305/13, 1306/13, 1307/13 and 1308/13. In addition, the proposed amendments to Regulation (EU) No 652/2014 were agreed without discussion.
4. At its meeting on 6 November 2017, the Special Committee on Agriculture (SCA) agreed that, subject to a discussion in the Friends of the Presidency Group in charge of coordination of the Omnibus file and to the approval of the Permanent Representatives Committee (Part II), the necessary steps should be taken to allow the agreed changes to agricultural legislation to apply from 1 January 2018 and, therefore, that agricultural provisions should be split from the remainder of the Omnibus proposal.² It thus confirmed the agreement of the compromise package reached at its meeting on 16 October 2017 in the form of a free-standing regulation.
5. The SCA also agreed that, should the Permanent Representatives Committee (Part II) approve such a split, the SCA Chair should write to the Chair of the European Parliament's Committee on Agriculture and Rural Development, informing him that, should the European Parliament adopt its position at first reading, in accordance with Article 294(3) TFEU, in the form set out in document 13819/17 (which would be annexed to the letter), and subject to revision by the legal linguists of both institutions, the Council would, in accordance with Article 294(4) TFEU, approve the European Parliament's position and the act would be adopted in the wording which corresponds to the European Parliament's position.

¹ Doc. 10553/17 + ADD 1.

² No delegation opposed the split and a very large majority strongly supported it. (DK, MT, NL and UK reserved their positions.)

6. The Friends of the Presidency Group has been convened for 13 November 2017 in order to discuss the splitting off of the agricultural provisions as proposed by the SCA. The necessary legal and technical adaptations to the two parts - the separated agricultural provisions, as well as the remainder of the Omnibus proposal - would need to be made.
7. The separation of these provisions is necessary to allow for the entry into force of the agricultural provisions on 1 January 2018. A later entry into force would result in delaying the application of some simplification measures to 2019.
8. In order to be able to apply the simplifications for direct payments in 2018, the applicable provisions should be in force before the period for submitting applications for support begins (January/February for most Member States), i.e. by the beginning of 2018. Furthermore, Member States need time to take internal implementation decisions, sometimes requiring changes in the national legislation, and to adapt their information systems.
9. The situation is similar for area-related or animal-related payments under the Rural Development programmes, for which applications are normally submitted together with, or at the same time as, the ones for direct payments. For Rural Development, the delay in the entry into force of the delimitation of "areas with natural constraints" beyond 1 January 2018 in particular, is considered to lead to legal uncertainty.
10. The Council and the European Parliament have in the past split proposals from the Commission by agreeing which parts to split and then formally adopting the relevant provisions. The condition for splitting a proposal is that the relevant parts have to be separable, i.e. are not dependent on one another. The Council's Legal Service has confirmed that the agricultural provisions contained in Articles 267, 268, 269, 270 and 275 of the Omnibus proposal are separable and, therefore, can be split.
11. The decision to separate the relevant provisions requires the agreement of both co-legislators.
12. The European Parliament has initiated its internal process to trigger the separation of the agricultural provisions from the rest of the Omnibus regulation.

13. The assessment of the Presidency is that it would be necessary to decide on the separation of the agricultural provisions in the Permanent Representatives Committee (Part II) on 15 November 2017 to enable the completion of all relevant procedures in time and to allow the entry into force of the agricultural provisions on 1 January 2018.
 14. The Presidency therefore invites the Permanent Representatives Committee (Part II) to approve the separation of the agricultural provisions enumerated in point 1 from the Omnibus proposal, and to allow the SCA to take the necessary steps to transform these provisions into a stand-alone legislative text.
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